

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

IN RE TYSON FOODS, INC.

DERIVATIVE LITIGATION

Lead Case No. 1:21-cv-00730-AMD-JRC

STIPULATION OF VOLUNTARY DISMISSAL

WHEREAS, on February 2, 2021, a putative class action alleging violations of the federal securities laws was commenced in this Court against Tyson Foods, Inc. (“Tyson” or the “Company”) and certain of its officers and directors alleging violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 (the “Exchange Act”), captioned *Guo v. Tyson Foods, Inc., et al.*, 21-cv-00552-AMD-JRC (the “Federal Securities Action”).

WHEREAS, on February 10, 2021, Plaintiff Hugues Gervat filed a shareholder derivative action in this Court alleging claims for violations of Sections 10(b) and 21D of the Exchange Act, breaches of fiduciary duty, unjust enrichment, abuse of control, gross mismanagement, and waste of corporate assets against defendants Noel White, Dean Banks, Stewart Glendinning, John H. Tyson, Les R. Baledge, Gaurdie E. Banister, Mike Beebe, David J. Bronczek, Mikel A. Durham, Jonathan D. Mariner, Kevin M. McNamara, Cheryl S. Miller, Jeffrey K. Schomburger, Robert Thurber, and Barbara Tyson (collectively with the Company, the “Defendants”), captioned *Gervat v. White, et al.*, 1:21-cv-00730-AMD-JRC (the “*Gervat* Action”);

WHEREAS, on February 26, 2021, Plaintiff Michelle Wolkomir (together with Mr. Gervat, the “Plaintiffs”) filed a shareholder derivative action in this Court alleging substantially similar facts

and alleging claims for violations of Sections 10(b) and 21D of the Exchange Act, breach of fiduciary duty, and waste of corporate assets against the Defendants, captioned *Wolkomir v. Tyson, et al.*, 1:21-cv-01043-AMD-JRC (the “*Wolkomir Action*”), which Plaintiff Wolkomir designated as related to the *Gervat Action*;

WHEREAS on March 8, 2021, the Court so-ordered the parties’ Joint Stipulation and [Proposed] Order Consolidating and Temporarily Staying Related Shareholder Derivative Actions and Establishing a Leadership Structure, which consolidated the *Gervat Action* and the *Wolkomir Action* for all purposes, including trial (together, the “Consolidated Action”) and appointed Gervat’s and Wolkomir’s counsel as Co-Lead Counsel for Plaintiffs;

WHEREAS, on May 21, 2021, the Parties entered into a stipulation providing that the Consolidated Action be stayed pending resolution of Defendants’ motion to dismiss the Federal Securities Action, which the Court so-ordered on June 7, 2021;

WHEREAS, since approving the May 21 stipulation, the Court periodically sought updates as to whether the stay of the Consolidated Action should remain in effect and the Parties responded accordingly; and

WHEREAS, on July 11, 2023, the Federal Securities Action was voluntarily discontinued, without Defendants moving to dismiss, filing an answer or moving for summary judgment.

WHEREFORE, the parties, through their undersigned counsel, hereby agree, stipulate, and respectfully request that the Court enter an Order as follows:

1. Pursuant to Fed. R. Civ. P. 23.1(c) and Fed. R. Civ. P. 41(a)(1)(A)(i), Plaintiffs Hughes Gervat and Michelle Wolkomir hereby voluntarily dismiss their claims in the above-captioned Consolidated Action without prejudice and with the Parties to bear their own costs and expenses.

2. No compensation in any form has passed directly or indirectly from any of the Defendants to either Plaintiff or to Co-Lead Counsel for Plaintiffs, and no promise to give any such compensation has been made.

Respectfully submitted,

November 5, 2023

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Counsel for Defendants

SO ORDERED:

Dated: _____, 2023

**HONORABLE ANN M. DONNELLY
UNITED STATES DISTRICT COURT
JUDGE**